

March 30, 2017

VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: **EX PARTE PRESENTATION**
Misuse of Internet Protocol (IP) Captioned Telephone Service;
Telecommunications Relay Services and Speech-to-Speech Services for
Individuals with Hearing and Speech Disabilities
CG Docket Nos. 13-24, 03-123

Dear Ms. Dortch:

On March 28, 2017, Dixie Ziegler, Vice President of Hamilton Relay, Inc. (“Hamilton”), Jeff Knighton of Hamilton (by telephone), and the undersigned counsel on behalf of Hamilton, met with Karen Peltz Strauss, Robert Aldrich, Eliot Greenwald, and Michael Scott of the Commission’s Consumer & Governmental Affairs Bureau. Kevin Colwell and Christopher Engelke of Ultratec, Inc., Hamilton’s contractor, also attended the meeting.

During the meetings, Hamilton expressed its continued support for the use of the Multistate Average Rate Structure (“MARS”) for calculating the reimbursement rates for interstate traditional TRS, PSTN-based Captioned Telephone Service (“CTS”) and IP-based CTS (“IP CTS”). Consistent with its previous comments,¹ Hamilton reiterated its opposition to any arbitrary deviation from a competitively-based rate methodology such as MARS to an artificial rate methodology established by a governmental agency. Hamilton noted that the Commission has never abandoned a competitively-based rate methodology in favor of a methodology based on allowed costs, and the record in this proceeding lacks justification for doing so.² At the very

¹ See, e.g., Comments of Hamilton Relay, Inc., CG Docket Nos. 10-51, 03-123, at 2-11 (filed June 4, 2015); Reply Comments of Hamilton Relay, Inc., CG Docket Nos. 10-51, 03-123, at 2-8 (filed June 11, 2015); Comments of Hamilton Relay, Inc., CG Docket Nos. 10-51, 03-123, at 1-10 (filed Nov. 4, 2013); Reply Comments of Hamilton Relay, Inc., CG Docket Nos. 10-51, 03-123, at 2-9 (filed Dec. 4, 2013).

² Moreover, the Commission has never sought comment on what IP CTS costs may be allowed and what costs may be disallowed under a cost-plus approach. The “declining IP CTS costs”

least, the Commission should initiate a Further Notice of Proposed Rulemaking to refresh a record that is now nearly four years old.

Hamilton notes that, since 2013, the main proponent of a change to the rate methodology, Sorenson/CaptionCall, switched from supporting a price cap approach to abandoning that approach in favor of MARS, and then subsequently switched back to supporting a price cap approach.³ Such positional changes simply demonstrate that the record in this proceeding needs to be refreshed before the Commission can justify any change in the IP CTS rate methodology.

Since its adoption in 2007, MARS has been the most stable ratemaking methodology ever adopted for IP-based relay services. Indeed, MARS has remained remarkably steady over nearly ten years of annual ratesetting, and has remained consistent with Consumer Price Index increases during that time. In contrast, the IP Relay and VRS rate methodologies have been consistently altered and challenged by industry. Meanwhile, the marginal increases over time in the MARS rate are due to rising labor costs and other business costs which apply equally to CTS and IP CTS, and not because of decreasing CTS minutes used to calculate the rate.

Hamilton also discussed the Consortia economic report previously filed in 2013,⁴ which highlights the flaws inherent in a cost-based or price cap approach to rate regulation, instead of a competitive-based rate methodology such as MARS. The Commission should seek comment on the Consortia report before moving forward with any change to the IP CTS rate methodology.

Hamilton reiterates here its support for quality standards, such as defining answer speed, abandoned call counts, and adopting a clear definition of how to measure conversation time. As

suggested by the TRS Fund Administrator are based on a cost data approach that has never been subject to notice and comment. *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, ¶ 118 & n.395 (2013).

³ Compare Ex Parte letters of Sorenson/CaptionCall, CG Docket Nos. 13-24, 03-123 (filed Nov. 16, 2015 and Jan. 27, 2016) (withdrawing its proposal to implement a price cap rate-setting methodology for IP CTS and opposing any departure from MARS) to Ex Parte letter of Sorenson/CaptionCall, CG Docket Nos. 13-24, 03-123 (filed Oct. 4, 2016) (proposing a revised price cap plan). The Commission has not sought comment on Sorenson's new proposal or its request for withdrawal of its price cap proposal which underpinned the rate methodology proposal in the *Further Notice*. The fact that Sorenson/CaptionCall withdrew the very proposal set forth in the *Further Notice* should be sufficient rationale for refreshing the record.

⁴ The report was originally submitted as Exhibit A to Hamilton's comments filed on November 4, 2013 in these proceedings.

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Hamilton has previously noted, different providers may use different standards of measurement currently, which can result in widely varying cost data.⁵

This filing is made in accordance with Section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. § 1.1206(b)(1). In the event that there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

/s/ David A. O'Connor

Counsel for Hamilton Relay, Inc.

cc (via e-mail): Participants

⁵ See, e.g., Comments of Hamilton Relay, Inc., CG Docket Nos. 13-24, 03-123, at 14 (filed Nov. 4, 2013).